

The 10 steps from your arrest to your appeal

Produced by the Paralegal Advisory Service (PAS), 2004



1 Arrest

You can be arrested where reasonable grounds exist that you have committed an offence or are about to. A police officer may use reasonable force if you resist arrest. If you offer no violence or resistance, the police officer cannot strike you. You will be taken to the police station. *If the offence is not a serious one, the police can promptly bail you from the police station.*



2 Interview

At the police station, you will be interviewed 'under caution'. The purpose of the police interview is to give you an opportunity to answer the police version of events in a formal record that will be placed before the court. It is illegal for police to torture you or use cruel, inhuman or degrading treatment or punishment such as threatening physical harm in order to make you confess to something you did not do. If you prefer, you can say nothing and state at the beginning of the interview: 'I do not want to say anything and wish to exercise my right to silence.'



Police Bail

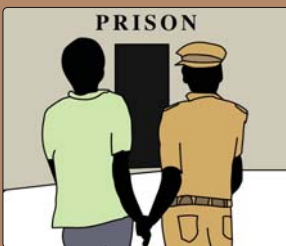
3 Court

From the police station, the police will take you to a court as soon as they can but certainly no later than 48 hours (two days) unless there is a holiday in which case the next day. At court, they will charge you with the offence or request more time to keep you in custody in a police station or prison while they continue their investigations. This may be appropriate in serious and complicated cases but not in simple cases.



4 Remand

At your first appearance in court, it is likely the case will be adjourned (ie put over to another date). *In which case, the decision will need to be made whether you should be allowed out on bail or remanded in custody.*



PRISON

5 Charge

When you next appear in court, it is likely you will be charged – although this could happen at your first appearance. A charge is a formal notice of the offence you are alleged to have committed. This is read out in court. You will need to decide whether you committed the offence set down in the charge - or not - in which case you will plead **Guilty** - or **Not Guilty**.



6 Committal for trial

In homicide and treason trials, the magistrate cannot hear the matter as it is too serious, it will need to be heard by the High Court. To send the case to the high court, it needs to be 'committed' there. The prosecution prepare all the witness statements and case papers and these are formally sent by the magistrate to the High Court. You will be required to attend this hearing.



Bail

7 Plea

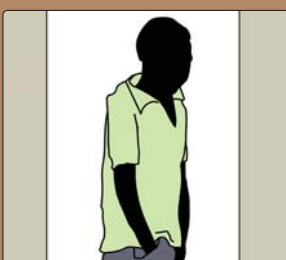
If you plead Guilty (High Court or Magistrate's Court) the prosecution will read out the facts and the magistrate/judge will ask you if you agree with these facts. If you say the facts are correct, the magistrate/judge will convict you. Then before sentencing you, the court will ask you to give your account. You will then enter a plea in mitigation, ie you put your side of things and ask for mercy from the court.

If you plead Not Guilty the matter will be adjourned for trial.

8 Trial

Your trial wherever it is to be heard, in the magistrate's court or the High Court, should take place 'within a reasonable time'. At the end of the trial, the court will either find you **Not Guilty** of the offence(s) and you will be 'acquitted' (set free and the matter is closed forever); or you will be found **Guilty** and sentenced.

CONVICTED



9 Sentence

If you plead Guilty or are found to be Guilty after a trial, the sentence of the court should be proportionate to the offence you committed. It should also take into account the circumstances in which you committed the offence and your own personal circumstances at the time.

10 Confirmation & Appeal

Your sentence should be checked ('confirmed') by the High Court - particularly if you are a first offender. Even if your sentence is confirmed, you have the right - as every convicted person does - to an appeal either against the sentence passed (it was too much) or against conviction (you maintain your innocence) or both.

ACQUITTED

